

## REMARKS/ARGUMENTS

### Claim Amendments

Claim 1 has been amended to recite that a diaphragm is “bowed” and “...biased closed in the upstream direction” of a spout. Support for the amendment can be found in paragraph [0034] and Figures 1, 3, 5A, and 5B in the instant application. The Applicants have appreciated that biasing a bowed diaphragm in a manner where the opening of the diaphragm is closed in the upstream direction allows the “...residual upstream pressure ... assists in keeping the opening closed” (see paragraph [0034]).

Claim 16 has also been amended in a similar fashion as claim 1. It should be noted that claim 16 has been amended for clarity.

### 35 USC § 102

Please note the office action dated July 28, 2008, merely references Derving by name and fails to supply a serial number, patent publication number, or a patent number. The Applicants assume the Derving reference is U.S. Patent 4,877,160 titled “Valve Unit” issued on October 31, 1989. The assumed reference appears to be consistent with the remarks made by the Examiner. However, the Applicants make no admissions to the relevance of the assume reference in the following discussion.

The Office rejected claims 1 – 4, 6 – 8, and 13 under 35 U.S.C. 102 as being anticipated by Derving (assumed to be U.S. Patent 4,877,160). The Applicants respectfully disagree. Although the Applicants disagree with the Examiner’s interpretation that Derving’s nozzle (element 5 of Figure 1 and 2) equates to a diaphragm as contemplated by the Applicants, claim 1 has been amended for clarity and to further prosecution of the application.

Amended claim 1 (and claims 2 – 4, 6 – 8, and 13 by virtue of their dependency on claim 1) includes the limitation that the diaphragm is bowed and biased closed in an upstream direction. Derving clearly illustrates in Figures 1 and 2 that nozzle 5 is biased closed in a flow or a downstream direction as opposed to in an upstream direction. Furthermore, nozzle 5 lacks a “bowed” shape, but rather appears to have an approximately cylindrical shape (see side view presented in Figure 1). The Applicants respectfully request that the rejection of claims 1 – 4, 6 -

8, and 13 be withdrawn on the grounds that Derving fails to teach all the claimed elements of claim 1.

### **35 USC § 103**

The Office rejected claims 5, 9, and 10 as being obvious under 35 U.S.C. 103 over Derving (assumed to be U.S. Patent 4,877,160). The Applicants respectfully submit the rejections of claims 5, 9, and 10 are rendered moot based on the arguments presented above and by virtue of their dependency on claim 1.

The Office rejected claims 1 – 4, 6 – 8, 12, 13, 15 – 19, and 21 under 35 U.S.C. 103 as being obvious over Dame (U.S. Patent 5,620,032) in view of Derving (assumed to be U.S. Patent 4,877,160). The Applicants respectfully disagree, especially in view of the amendments entered herein.

Both amended claim 1 and amended claim 16 require the referenced diaphragm to be bowed and biased closed in an upstream direction. Dame clearly shows that flaps 20 and 22 are biased closed in a flow or downstream direction. As previously argued, Derving's nozzle 5 is also biased closed in a flow or downstream direction. Dame, alone or combined with Derving, fails to teach, suggest, or motivate providing a bowed diaphragm, domed or otherwise, biased closed in an upstream direction.

With respect to claim 16, one should also note that neither Dame nor Derving teach, suggest, or motivate providing a diaphragm having a domed configuration.

Claims 1 – 4, 6 – 8, 12, 13, 15 – 19 and 21 are allowable over Dame and Derving on the grounds that there are no teachings, suggestions, or motivations to arrive at all the limitations of independent claims 1 or 16.

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**Request For Allowance**

Claims 1-10, 12-13 and 15-22 are pending in this application. Claims 11 and 14 are canceled. The applicant requests allowance of all pending claims.

Date: 9/22/08

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